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(H. R. 8974)

Pt. 1
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REVENUE ACT of 1935

Approved August 30, 1935 (Public # 407)

74th Cong., 1st sess. H.R. 8974

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379.50*

For History of Bill SEE

Index to Congressional Record,
74th Cong., 1st Sess. H.R. 8974

House report No. 1681 SEE Serial 9889

Senate report No. 1240 SEE Serial 9880
(2 Pts.)

House report No. 1885 SEE Serial 9889
(conference report)

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House Hearings

*July 8,
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TREASURY DEPARTMENT

[PUBLIC—No. 407—74TH CONGRESS]

[H. R. 8974]

AN ACT

To provide revenue, equalize taxation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Revenue Act of 1935".

TITLE I—INCOME AND EXCESS-PROFITS TAXES

SEC. 101. SURTAXES ON INDIVIDUALS

Section 12(b) of the Revenue Act of 1934 is amended by striking out all after the bracket—

"\$6,080 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$50,000, 27 per centum in addition of such excess."

and inserting in lieu thereof the following:

"\$7,700 upon surtax net incomes of \$50,000; and upon surtax net incomes in excess of \$50,000 and not in excess of \$56,000, 31 per centum in addition of such excess.

"\$9,560 upon surtax net incomes of \$56,000; and upon surtax net incomes in excess of \$56,000 and not in excess of \$62,000, 35 per centum in addition of such excess.

"\$11,660 upon surtax net incomes of \$62,000; and upon surtax net incomes in excess of \$62,000 and not in excess of \$68,000, 39 per centum in addition of such excess.

"\$14,000 upon surtax net incomes of \$68,000; and upon surtax net incomes in excess of \$68,000 and not in excess of \$74,000, 43 per centum in addition of such excess.

"\$16,580 upon surtax net incomes of \$74,000; and upon surtax net incomes in excess of \$74,000 and not in excess of \$80,000, 47 per centum in addition of such excess.

"\$19,400 upon surtax net incomes of \$80,000; and upon surtax net incomes in excess of \$80,000 and not in excess of \$90,000, 51 per centum in addition of such excess.

"\$24,500 upon surtax net incomes of \$90,000; and upon surtax net incomes in excess of \$90,000 and not in excess of \$100,000, 55 per centum in addition of such excess.

"\$30,000 upon surtax net incomes of \$100,000; and upon surtax net incomes in excess of \$100,000 and not in excess of \$150,000, 58 per centum in addition of such excess.

"\$59,000 upon surtax net incomes of \$150,000; and upon surtax net incomes in excess of \$150,000 and not in excess of \$200,000, 60 per centum in addition of such excess.

"\$89,000 upon surtax net incomes of \$200,000; and upon surtax net incomes in excess of \$200,000 and not in excess of \$250,000, 62 per centum in addition of such excess.

"\$120,000 upon surtax net incomes of \$250,000; and upon surtax net incomes in excess of \$250,000 and not in excess of \$300,000, 64 per centum in addition of such excess.

"\$152,000 upon surtax net incomes of \$300,000; and upon surtax net incomes in excess of \$300,000 and not in excess of \$400,000, 66 per centum in addition of such excess.

"\$218,000 upon surtax net incomes of \$400,000; and upon surtax net incomes in excess of \$400,000 and not in excess of \$500,000, 68 per centum in addition of such excess.

"\$286,000 upon surtax net incomes of \$500,000; and upon surtax net incomes in excess of \$500,000 and not in excess of \$750,000, 70 per centum in addition of such excess.

"\$461,000 upon surtax net incomes of \$750,000; and upon surtax net incomes in excess of \$750,000 and not in excess of \$1,000,000, 72 per centum in addition of such excess.

"\$641,000 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and not in excess of \$2,000,000, 73 per centum in addition of such excess.

"\$1,371,000 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$5,000,000, 74 per centum in addition of such excess.

"\$3,591,000 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000, 75 per centum in addition of such excess."

SEC. 102. INCOME TAXES ON CORPORATIONS

(a) Section 13 (a) of the Revenue Act of 1934 is amended to read as follows:

"(a) **RATE OF TAX.**—There shall be levied, collected, and paid for each taxable year upon the net income (in excess of the credit against net income provided in section 26) of every corporation, a tax as follows:

"Upon net incomes not in excess of \$2,000, 12½ per centum.

"\$250 upon net incomes of \$2,000; and upon net incomes in excess of \$2,000 and not in excess of \$15,000, 13 per centum in addition of such excess.

"\$1,940 upon net incomes of \$15,000; and upon net incomes in excess of \$15,000 and not in excess of \$40,000, 14 per centum in addition of such excess.

"\$5,440 upon net incomes of \$40,000; and upon net incomes in excess of \$40,000, 15 per centum in addition of such excess."

(b) Section 141(c) of the Revenue Act of 1934 is amended by striking out "except that there shall be added to the rate of tax prescribed by section 13(a) a rate of 2 per centum, but the tax at such increased rate shall be considered as imposed by section 13(a)" and by inserting in lieu thereof the following: "except that the rate of tax shall be 15¾ per centum, in lieu of the rates prescribed by section 13(a), but the tax at such rate of 15¾ per centum shall be considered as imposed by section 13(a)".

→ (c) Section 23 of the Revenue Act of 1934 (relating to deductions from gross income) is amended by adding at the end thereof a new subsection as follows:

"(r) **CHARITABLE AND OTHER CONTRIBUTIONS BY CORPORATIONS.**—In the case of a corporation, contributions or gifts made within the

taxable year to or for the use of a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary."

(d) Section 204(c) of the Revenue Act of 1934 (relating to deductions from gross income by insurance companies other than life or mutual) is amended by adding at the end thereof a new paragraph as follows:

"(10) Charitable, and so forth, contributions, as provided in section 23(r)."

(e) Section 232 of the Revenue Act of 1934 (relating to deductions allowed foreign corporations) is amended by inserting "(a) IN GENERAL.—" before the beginning of the section and by inserting at the end thereof the following new subsection:

"(b) CHARITABLE, AND SO FORTH, CONTRIBUTIONS.—The so-called 'charitable contribution' deduction allowed by section 23(r) shall be allowed whether or not connected with income from sources within the United States."

(f) Section 144 of the Revenue Act of 1934 (relating to payment of corporation income tax at source) is amended by inserting after the words "a tax equal to 13¾ per centum" the following: "thereof with respect to all payments of income made before January 1, 1936, and equal to 15 per centum thereof with respect to all payments of income made after December 31, 1935".

(g) Section 143(a)(1) of the Revenue Act of 1934 (relating to withholding of interest on tax-free covenant bonds) is amended by striking out clause (B) thereof and inserting in lieu thereof the following:

"(B) in the case of such a foreign corporation, 13¾ per centum with respect to all payments of interest made before January 1, 1936, and 15 per centum with respect to all payments of interest made after December 31, 1935, and".

(h) Section 23(p) of the Revenue Act of 1934 (relating to the deduction of dividends received by corporations) is amended by striking out the words "the amount" and inserting in lieu thereof the following: "90 per centum of the amount".

(i) Section 144 of the Revenue Act of 1934 is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided further*, That in the case of the payment, after December 31, 1935, of dividends of the class with respect to which a deduction is allowed by section 23(p), the deduction and withholding provided for in this section shall also apply to 10 per centum

of the amount of the payment: *Provided further*, That the Commissioner, under rules and regulations prescribed by him with the approval of the Secretary, may authorize withholding under this section and section 143(a)(1)(B), in cases where the taxpayer has a taxable year ending on any other date than December 31, at the rate of $13\frac{3}{4}$ per centum (and, in the case of payments of dividends with respect to which withholding is required, may authorize such payments to be made without withholding) until the beginning of the taxpayer's first taxable year which begins after December 31, 1935."

SEC. 103. INCOME TAX ON LIFE INSURANCE COMPANIES

Sections 201(b)(1) and (2) of the Revenue Act of 1934 are amended by striking out " $13\frac{3}{4}$ per centum of" and inserting in lieu thereof "a tax at the rates specified in section 13 upon".

SEC. 104. INCOME TAX ON INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL

Sections 204(a)(1) and (2) of the Revenue Act of 1934 are amended by striking out " $13\frac{3}{4}$ per centum of" and inserting in lieu thereof "a tax at the rates specified in section 13 upon".

SEC. 105. CAPITAL STOCK TAX

(a) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of \$1.40 for each \$1,000 of the adjusted declared value of its capital stock.

(b) For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to \$1.40 for each \$1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

(c) The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 101 of the Revenue Act of 1934, as amended;

(2) to any insurance company subject to the tax imposed by section 201, 204, or 207 of such Act, as amended.

(d) Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(f) For the first year ending June 30 in respect of which a tax is imposed by this section upon any corporation, the adjusted declared value shall be the value, as declared by the corporation in its first return under this section (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section (or as of the date of organization in the case of a corporation having no income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section). For any subsequent year ending June 30, the adjusted declared value in the case of a domestic corporation shall be the original declared value plus (1) the cash and fair market value of property paid in for stock or shares, (2) paid in surplus and contributions to capital, (3) its net income, (4) the excess of its income wholly exempt from the taxes imposed by Title I of the Revenue Act of 1934, as amended, over the amount disallowed as a deduction by section 24(a)(5) of such title, and (5) the amount of the dividend deduction allowable for income tax purposes, and minus (A) the value of property distributed in liquidation to shareholders, (B) distributions of earnings or profits, and (C) the excess of the deductions allowable for income tax purposes over its gross income; adjustment being made for each income-tax taxable year included in the period from the date as of which the original declared value was declared to the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year. For any subsequent year ending June 30, the adjusted declared value in the case of a foreign corporation shall be the original declared value adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

(g) For the purpose of the tax imposed by this section there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the

United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

(h) The capital stock tax imposed by section 701 of the Revenue Act of 1934 shall not apply to any taxpayer with respect to any year after the year ending June 30, 1935.

SEC. 106. EXCESS-PROFITS TAX

(a) There is hereby imposed upon the net income of every corporation for each income-tax taxable year ending after the close of the first year in respect of which it is taxable under section 105, an excess-profits tax equal to the sum of the following:

6 per centum of such portion of its net income for such income-tax taxable year as is in excess of 10 per centum and not in excess of 15 per centum of the adjusted declared value;

12 per centum of such portion of its net income for such income-tax taxable year as is in excess of 15 per centum of the adjusted declared value.

(b) The adjusted declared value shall be determined as provided in section 105 as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under this section is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months. For the purposes of this section the net income shall be the same as the net income for income tax purposes for the year in respect of which the tax under this section is imposed, except that there shall be deducted the amount of income tax imposed for such year by section 13 of the Revenue Act of 1934, as amended.

(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of the Revenue Act of 1934, as amended, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) The excess-profits tax imposed by section 702 of the Revenue Act of 1934 shall not apply to any taxpayer with respect to any income-tax taxable year ending after June 30, 1936.

SEC. 107. TAXABLE YEARS TO WHICH APPLICABLE

The amendments made by sections 101, 102 (except subsections (f), (g), and (i) thereof), 103, and 104 shall apply only in the case of taxable years beginning after December 31, 1935.

SEC. 108. CREDIT ALLOWED CHINA TRADE ACT CORPORATIONS

(a) Section 261(a) of the Revenue Act of 1934 is amended to read as follows:

“(a) ALLOWANCE OF CREDIT.—For the purpose only of the taxes imposed by section 13 of this Act and section 106 of the Revenue Act of 1935 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, in addition to the credit provided in section 26, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the diminution, by reason of such credit, of the tax imposed by such section 13 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by such section 106 (computed without regard to this section) exceed the amount by which such special dividend exceeds the diminution permitted by this section in the tax imposed by such section 13.”

(b) The amendment made by subsection (a) shall apply, with respect to the tax imposed by section 13 of the Revenue Act of 1934, as amended, only in the case of taxable years beginning after December 31, 1935.

SEC. 109. PERSONAL HOLDING COMPANIES

(a) Section 351(a) of the Revenue Act of 1934 is amended to read as follows:

“(a) IMPOSITION OF TAX.—There shall be levied, collected, and paid, for each taxable year, upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

“(1) 20 per centum of the amount thereof not in excess of \$2,000; plus

“(2) 30 per centum of the amount thereof in excess of \$2,000 and not in excess of \$100,000; plus

“(3) 40 per centum of the amount thereof in excess of \$100,000 and not in excess of \$500,000; plus

“(4) 50 per centum of the amount thereof in excess of \$500,000 and not in excess of \$1,000,000; plus

“(5) 60 per centum of the amount thereof in excess of \$1,000,000.”

(b) Section 351(b) (2) (C) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: “and distributions (not in complete or partial liquidation and not a ‘dividend’ as defined in section 115) made during the taxable year out of earnings or profits of such year.”

(c) The amendments made by this section shall apply only in the case of taxable years beginning after December 31, 1935.

SEC. 110. CORPORATE LIQUIDATIONS

(a) Section 112(b) of the Revenue Act of 1934 is amended by adding after paragraph (5) a new paragraph reading as follows:

“(6) EXCHANGE IN LIQUIDATION.—No gain or loss shall be recognized upon the receipt by a corporation of property (other than money) distributed in complete liquidation of another corporation, if the corporation receiving such property on such exchange was on the date of the enactment of the Revenue Act of 1935 and has continued to be at all times until the exchange, in control of such other corporation. As used in this paragraph ‘complete liquidation’ includes any one of a series of distributions by a corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding five years from the close of the taxable year during which is made the first of the series of distributions under the plan. If such transfer of property is not completed within the taxable year the Commissioner may require of the taxpayer, as a condition to the non-recognition of gain under this paragraph, such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure the assessment and collection of the tax if the transfer of the property is not completed in accordance with the plan. This paragraph shall not apply to any liquidation if any distribution in pursuance thereof has been made before the date of the enactment of the Revenue Act of 1935.”

(b) Section 112(c) (1) of the Revenue Act of 1934 is amended by striking out “or (5)” and inserting in lieu thereof “(5), or (6)”.

(c) Section 112(e) of the Revenue Act of 1934 is amended by striking out “subsection (b) (1) to (5)” and inserting in lieu thereof “subsection (b) (1) to (6)”.

(d) Section 112(i) of the Revenue Act of 1934 is amended by striking out “(4), or (5)” and inserting in lieu thereof “(4), (5), or (6)”, and by striking out “(3) or (5)” and inserting in lieu thereof “(3), (5), or (6)”.

(e) The amendments made by this section shall apply only in the case of taxable years beginning after December 31, 1935.

TITLE II—AMENDMENTS TO ESTATE TAX

SEC. 201. ESTATE TAX RATES

(a) Section 401(b) of the Revenue Act of 1932, as amended, is amended to read as follows:

“(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

“Upon net estates not in excess of \$10,000, 2 per centum.

“\$200 upon net estates of \$10,000; and upon net estates in excess of \$10,000 and not in excess of \$20,000, 4 per centum in addition of such excess.

“\$600 upon net estates of \$20,000; and upon net estates in excess of \$20,000 and not in excess of \$30,000, 6 per centum in addition of such excess.

“\$1,200 upon net estates of \$30,000; and upon net estates in excess of \$30,000 and not in excess of \$40,000, 8 per centum in addition of such excess.

“\$2,000 upon net estates of \$40,000; and upon net estates in excess of \$40,000 and not in excess of \$50,000, 10 per centum in addition of such excess.

“\$3,000 upon net estates of \$50,000; and upon net estates in excess of \$50,000 and not in excess of \$70,000, 12 per centum in addition of such excess.

“\$5,400 upon net estates of \$70,000; and upon net estates in excess of \$70,000 and not in excess of \$100,000, 14 per centum in addition of such excess.

“\$9,600 upon net estates of \$100,000; and upon net estates in excess of \$100,000 and not in excess of \$200,000, 17 per centum in addition of such excess.

“\$26,600 upon net estates of \$200,000; and upon net estates in excess of \$200,000 and not in excess of \$400,000, 20 per centum in addition of such excess.

“\$66,600 upon net estates of \$400,000; and upon net estates in excess of \$400,000 and not in excess of \$600,000, 23 per centum in addition of such excess.

“\$112,600 upon net estates of \$600,000; and upon net estates in excess of \$600,000 and not in excess of \$800,000, 26 per centum in addition of such excess.

“\$164,600 upon net estates of \$800,000; and upon net estates in excess of \$800,000 and not in excess of \$1,000,000, 29 per centum in addition of such excess.

“\$222,600 upon net estates of \$1,000,000; and upon net estates in excess of \$1,000,000 and not in excess of \$1,500,000, 32 per centum in addition of such excess.

“\$382,600 upon net estates of \$1,500,000; and upon net estates in excess of \$1,500,000 and not in excess of \$2,000,000, 35 per centum in addition of such excess.

“\$557,600 upon net estates of \$2,000,000; and upon net estates in excess of \$2,000,000 and not in excess of \$2,500,000, 38 per centum in addition of such excess.

“\$747,600 upon net estates of \$2,500,000; and upon net estates in excess of \$2,500,000 and not in excess of \$3,000,000, 41 per centum in addition of such excess.

“\$952,600 upon net estates of \$3,000,000; and upon net estates in excess of \$3,000,000 and not in excess of \$3,500,000, 44 per centum in addition of such excess.

“\$1,172,600 upon net estates of \$3,500,000; and upon net estates in excess of \$3,500,000 and not in excess of \$4,000,000, 47 per centum in addition of such excess.

“\$1,407,600 upon net estates of \$4,000,000; and upon net estates in excess of \$4,000,000 and not in excess of \$4,500,000, 50 per centum in addition of such excess.

“\$1,657,600 upon net estates of \$4,500,000; and upon net estates in excess of \$4,500,000 and not in excess of \$5,000,000, 53 per centum in addition of such excess.

“\$1,922,600 upon net estates of \$5,000,000; and upon net estates in excess of \$5,000,000 and not in excess of \$6,000,000, 56 per centum in addition of such excess.

“\$2,482,600 upon net estates of \$6,000,000; and upon net estates in excess of \$6,000,000 and not in excess of \$7,000,000, 59 per centum in addition of such excess.

"\$3,072,600 upon net estates of \$7,000,000; and upon net estates in excess of \$7,000,000 and not in excess of \$8,000,000, 61 per centum in addition of such excess.

"\$3,682,600 upon net estates of \$8,000,000; and upon net estates in excess of \$8,000,000 and not in excess of \$9,000,000, 63 per centum in addition of such excess.

"\$4,312,600 upon net estates of \$9,000,000; and upon net estates in excess of \$9,000,000 and not in excess of \$10,000,000, 65 per centum in addition of such excess.

"\$4,962,600 upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000 and not in excess of \$20,000,000, 67 per centum in addition of such excess.

"\$11,662,600 upon net estates of \$20,000,000; and upon net estates in excess of \$20,000,000 and not in excess of \$50,000,000, 69 per centum in addition of such excess.

"\$32,362,600 upon net estates of \$50,000,000; and upon net estates in excess of \$50,000,000, 70 per centum in addition of such excess."

(b) Section 401 (c) of the Revenue Act of 1932 (relating to the exemption for the purposes of the additional estate tax) is amended by striking out "\$50,000" and inserting in lieu thereof "\$40,000".

(c) Section 403 of the Revenue Act of 1932, as amended, (relating to the requirement for filing return under such additional estate tax) is amended by striking out "\$50,000" and inserting in lieu thereof "\$40,000".

(d) The amendments made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

SEC. 202. ESTATE TAX—VALUATION

(a) Section 302 of the Revenue Act of 1926, as amended, is amended by adding a new subdivision as follows:

"(j) If the executor so elects upon his return (if filed within the time prescribed by law or prescribed by the Commissioner in pursuance of law), the value of the gross estate shall be determined by valuing all the property included therein on the date of the decedent's death as of the date one year after the decedent's death, except that (1) property included in the gross estate on the date of death and, within one year after the decedent's death, distributed by the executor (or, in the case of property included in the gross estate under subdivision (c), (d), or (f) of this section, distributed by the trustee under the instrument of transfer), or sold, exchanged, or otherwise disposed of, shall be included at its value as of the time of such distribution, sale, exchange, or other disposition, whichever first occurs, instead of its value as of the date one year after the decedent's death, and (2) any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time. No deduction under this title of any item shall be allowed if allowance for such item is in effect given by the valuation under this subdivision. Wherever in any other subdivision or section of this title or in Title II of the Revenue Act of 1932, reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property

used in determining the value of the gross estate. In case of an election made by the executor under this subdivision, then for the purposes of the deduction under section 303(a)(3) or section 303(b)(3), any bequest, legacy, devise, or transfer enumerated therein shall be valued as of the date of decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date one year after the decedent's death (substituting the date of sale or exchange in the case of property sold or exchanged during such one-year period)."

(b) The amendment made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

SEC. 203. ESTATE TAX—DUE DATE

(a) Section 305(a) of the Revenue Act of 1926 is amended to read as follows:

"(a) The tax imposed by this title shall be due and payable fifteen months after the decedent's death, and shall be paid by the executor to the collector."

(b) Section 305(c) of the Revenue Act of 1926 is amended to read as follows:

"(c) If the time for the payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the expiration of three months after the due date of the tax to the expiration of the period of the extension."

(c) The amendments made by this section shall be effective only with respect to transfers of estates of decedents dying after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO GIFT TAX

SEC. 301. GIFT TAX RATES

(a) The gift-tax schedule set forth in section 502 of the Revenue Act of 1932, as amended, is amended to read as follows:

"Upon net gifts not in excess of \$10,000, 1½ per centum.

"\$150 upon net gifts of \$10,000; and upon net gifts in excess of \$10,000 and not in excess of \$20,000, 3 per centum in addition of such excess.

"\$450 upon net gifts of \$20,000; and upon net gifts in excess of \$20,000 and not in excess of \$30,000, 4½ per centum in addition of such excess.

"\$900 upon net gifts of \$30,000; and upon net gifts in excess of \$30,000 and not in excess of \$40,000, 6 per centum in addition of such excess.

"\$1,500 upon net gifts of \$40,000; and upon net gifts in excess of \$40,000 and not in excess of \$50,000, 7½ per centum in addition of such excess.

"\$2,250 upon net gifts of \$50,000; and upon net gifts in excess of \$50,000 and not in excess of \$70,000, 9 per centum in addition of such excess.

"\$4,050 upon net gifts of \$70,000; and upon net gifts in excess of \$70,000 and not in excess of \$100,000, 10½ per centum in addition of such excess.

"\$7,200 upon net gifts of \$100,000; and upon net gifts in excess of \$100,000 and not in excess of \$200,000, $12\frac{3}{4}$ per centum in addition of such excess.

"\$19,950 upon net gifts of \$200,000; and upon net gifts in excess of \$200,000 and not in excess of \$400,000, 15 per centum in addition of such excess.

"\$49,950 upon net gifts of \$400,000; and upon net gifts in excess of \$400,000 and not in excess of \$600,000, $17\frac{1}{4}$ per centum in addition of such excess.

"\$84,450 upon net gifts of \$600,000; and upon net gifts in excess of \$600,000 and not in excess of \$800,000, $19\frac{1}{2}$ per centum in addition of such excess.

"\$123,450 upon net gifts of \$800,000; and upon net gifts in excess of \$800,000 and not in excess of \$1,000,000, $21\frac{3}{4}$ per centum in addition of such excess.

"\$166,950 upon net gifts of \$1,000,000; and upon net gifts in excess of \$1,000,000 and not in excess of \$1,500,000, 24 per centum in addition of such excess.

"\$286,950 upon net gifts of \$1,500,000; and upon net gifts in excess of \$1,500,000 and not in excess of \$2,000,000, $26\frac{1}{4}$ per centum in addition of such excess.

"\$418,200 upon net gifts of \$2,000,000; and upon net gifts in excess of \$2,000,000 and not in excess of \$2,500,000, $28\frac{1}{2}$ per centum in addition of such excess.

"\$560,700 upon net gifts of \$2,500,000; and upon net gifts in excess of \$2,500,000 and not in excess of \$3,000,000, $30\frac{3}{4}$ per centum in addition of such excess.

"\$714,450 upon net gifts of \$3,000,000; and upon net gifts in excess of \$3,000,000 and not in excess of \$3,500,000, 33 per centum in addition of such excess.

"\$879,450 upon net gifts of \$3,500,000; and upon net gifts in excess of \$3,500,000 and not in excess of \$4,000,000, $35\frac{1}{4}$ per centum in addition of such excess.

"\$1,055,700 upon net gifts of \$4,000,000; and upon net gifts in excess of \$4,000,000 and not in excess of \$4,500,000, $37\frac{1}{2}$ per centum in addition of such excess.

"\$1,243,200 upon net gifts of \$4,500,000; and upon net gifts in excess of \$4,500,000 and not in excess of \$5,000,000, $39\frac{3}{4}$ per centum in addition of such excess.

"\$1,441,950 upon net gifts of \$5,000,000; and upon net gifts in excess of \$5,000,000 and not in excess of \$6,000,000, 42 per centum in addition of such excess.

"\$1,861,950 upon net gifts of \$6,000,000; and upon net gifts in excess of \$6,000,000 and not in excess of \$7,000,000, $44\frac{1}{4}$ per centum in addition of such excess.

"\$2,304,450 upon net gifts of \$7,000,000; and upon net gifts in excess of \$7,000,000 and not in excess of \$8,000,000, $45\frac{3}{4}$ per centum in addition of such excess.

"\$2,761,950 upon net gifts of \$8,000,000; and upon net gifts in excess of \$8,000,000 and not in excess of \$9,000,000, $47\frac{1}{4}$ per centum in addition of such excess.

"\$3,234,450 upon net gifts of \$9,000,000; and upon net gifts in excess of \$9,000,000 and not in excess of \$10,000,000, $48\frac{3}{4}$ per centum in addition of such excess.

“\$3,721,950 upon net gifts of \$10,000,000; and upon net gifts in excess of \$10,000,000 and not in excess of \$20,000,000, 50¼ per centum in addition of such excess.

“\$8,746,950 upon net gifts of \$20,000,000; and upon net gifts in excess of \$20,000,000 and not in excess of \$50,000,000, 51¾ per centum in addition of such excess.

“\$24,271,950 upon net gifts of \$50,000,000; and upon net gifts in excess of \$50,000,000, 52½ per centum in addition of such excess.”

(b) Section 505 (a) (1) of the Revenue Act of 1932 (relating to the specific exemption for gift-tax purposes) is amended by striking out “\$50,000 ” and inserting in lieu thereof “\$40,000 ”.

(c) The amendments made by subsections (a) and (b) of this section shall be applied in computing the tax for the calendar year 1936 and each calendar year thereafter (but not the tax for the calendar year 1935 or a previous calendar year), and such amendments shall be applied in all computations in respect of the calendar year 1935 and previous calendar years for the purpose of computing the tax for the calendar year 1936 or any calendar year thereafter.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENTS TO TITLE IV OF REVENUE ACT OF 1932

(a) Section 620 (3) of the Revenue Act of 1932, as amended, is amended to read as follows:

“(3) for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia.”

(b) Section 621(a) (3) of the Revenue Act of 1932, as amended, is amended to read as follows:

“(3) to a manufacturer, producer, or importer, in the amount of tax paid by him under this title with respect to the sale of any article to any vendee, if the manufacturer, producer, or importer has in his possession such evidence as the regulations may prescribe that on or after the first day of the second month following the date of the enactment of the Revenue Act of 1935—

“(A) such article was, by any person—

“(i) resold for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

“(ii) used or resold for use as fuel supplies, ship’s stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

“(iii) in the case of products embraced in paragraph (2) of section 617(c), as amended, used or resold for use otherwise than as fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the production of such fuel: *Provided, however,* That no credit or refund shall be allowed or made under this paragraph in the case of sales or

uses of products commonly or commercially known or sold as gasoline, including casinghead and natural gasoline;

“(iv) in the case of lubricating oils, used or resold for non-lubricating purposes.

“(B) The manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the ultimate vendor or has obtained the consent of the ultimate vendor to the allowance of the credit or refund.”

(c) Section 621(c) of the Revenue Act of 1932, as amended, is amended to read as follows:

“(e) Interest shall be allowed at the rate of 6 per centum per annum with respect to any amount of tax under this title credited or refunded, except that no interest shall be allowed with respect to any amount of tax credited or refunded under the provisions of subsection (a) hereof, and except that no interest shall be allowed for any period prior to the first day of the second month following the date of the enactment of the Revenue Act of 1935.”

(d) The amendments made by this section shall become effective on the 1st day of the second month following the date of the enactment of this Act.

SEC. 402. COMPENSATORY TAX ON PRODUCTS OF CERTAIN OILS

During any period after the thirtieth day after the date of the enactment of this Act when—

(1) a processing tax is in effect under section 602½ of the Revenue Act of 1934, or

(2) an import tax is in effect under section 601(c) (8) of the Revenue Act of 1932, as amended,

there is hereby imposed upon any article (not within the scope of either such tax) manufactured or produced wholly or in chief value from any one or more of the oils subject to either such tax, when such article is imported into the United States from any foreign country or from any possession of the United States or from the high seas, a compensatory tax equivalent to the tax which would be payable under such section 602½ or 601(c) (8) upon such oil or oils if imported into the United States or if processed in the United States. The tax imposed by this section shall be levied, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, and shall be treated, for the purposes of all provisions of law (except section 336 of such Act) not inconsistent with this section, as a duty imposed by such Act. All taxes collected under this section on account of coconut oil produced from materials wholly of Philippine growth or production, shall be held as a separate fund and paid to the Treasury of the Philippine Islands, but if at any time the Philippine Government provides by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine Treasury shall be made under this section.

SEC. 403. SPECIAL EXCISE TAX ON CARRYING ON LIQUOR BUSINESS

The special excise tax imposed by section 701 of the Revenue Act of 1926 (U. S. C., title 26, sec. 206) shall not apply with respect to carrying on business after June 30, 1935.

SEC. 404. INTEREST ON DELINQUENT TAXES

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

SEC. 405. DECLARATORY JUDGMENTS AS TO TAXES

(a) Paragraph (1) of section 274D of the Judicial Code (Public, Numbered 343, Seventy-third Congress) is amended by adding after the words "actual controversy" the following: "(except with respect to Federal taxes)".

(b) The amendment made by subsection (a) of this section shall apply to any proceeding now pending in any court of the United States.

SEC. 406. FAILURE TO FILE RETURNS

In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

SEC. 407. TAXES ON CRUDE PETROLEUM

Effective on the first day of the first calendar month following the date of the enactment of this Act, sections 604 and 605 of the Revenue Act of 1934 (relating to taxes on production and refining of crude petroleum) are amended by striking out "1/10 of 1 cent per barrel" wherever appearing therein and inserting in lieu thereof "1/25 of 1 cent per barrel".

TITLE V—GENERAL PROVISIONS**SEC. 501. DEFINITIONS**

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(5) The term "stock" includes the share in an association, joint-stock company, or insurance company.

(6) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(8) The term "Secretary" means the Secretary of the Treasury.

(9) The term "Commissioner" means the Commissioner of Internal Revenue.

(10) The term "collector" means collector of internal revenue.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

SEC. 502. SEPARABILITY CLAUSE

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SEC. 503. EFFECTIVE DATE OF ACT

Except as otherwise provided, this Act shall take effect upon its enactment.

Approved, August 30, 1935, at 6 p. m.



Legis.Hist.

P.L.74-407

(H.R.8974)

Pt.1

c.1 Revenue Act Of 1935

Legis.Hist.

P.L.74-407

(H.R.8974)

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